

Exhibit C

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P R O C E E D I N G S

1 REPORTER: We are on the record. Today's
2 date is February 26th, 2021. The time is 7:36 a.m.
3 This is the oral deposition of Edward Blum and it is
4 being conducted remotely by agreement of the parties or
5 in accordance with current emergency orders.

6 The witness is attending from the law office of Consovoy
7 and McCarthy located at 1600 Wilson, Arlington, Virginia
8 22209.

9 My name is Miah Hoffman. CSR number
10 11773 with Kim Tindall and Associates. I am
11 administering the oath and recording the deposition
12 remotely by oral stenographic means. My business
13 address is 16414 San Pedro Avenue, Suite 900, San
14 Antonio, Texas 78232.

15 The witness has been identified to me
16 through his U.S. passport. Would counsel please state
17 their appearances for the record?

18 MR. POWERS: Matt Powers for the
19 defendants.

20 MR. MCKETTA: Mike McKetta also for the
21 defendants.

22 MR. HINOJOSA: David Hinojosa for the
23 student intervenors.

24 MS. SIMPSON: Carter Simpson for the
25 student intervenors.

1 MR. MCCARTHY: Thomas McCarthy from
2 Consovoy McCarthy for Student For Fair Admissions, Inc.

3 (Witness duly sworn.)

4 EDWARD BLUM,
5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. POWERS:

8 MR. POWERS: Mr. McCarthy, is it okay to
9 proceed? Did you want to say anything on the record
10 before we get started?

11 MR. MCCARTHY: Thanks, Mr. Powers. I
12 would. Consistent with, I think, our practice in the
13 other depositions in this case, I'd like to put a few
14 stipulations on the record and I'll -- I'll do so now.
15 Thanks.

16 During this deposition it's possible that the
17 University of Texas, or the intervenors, will ask
18 questions that SFFA believes infringe upon the First
19 Amendment and associational rights of SFFA and its
20 members. SFFA may instruct the witness not to answer a
21 question on these grounds. If a disagreement arises as
22 to whether this instruction is proper, the parties agree
23 to do their best to resolve the disagreement during the
24 deposition or, if necessary, before the Court. SFFA
25 agrees that UT and the intervenors may have the right to

1 Q. (BY MR. POWERS) Can you describe for me how
2 the missions of the Project on FairRepresentation and
3 SFFA are the same or different?

4 MR. MCCARTHY: Objection form.

5 THE WITNESS: The -- the mission of both
6 is to eliminate racial considerations in our public
7 policies. Students For Fair Admissions has thus far
8 focused on educational -- higher educational admissions
9 policies and I think once or twice had activities in K
10 through 12 arena. The Project on Fair Representation no
11 longer concentrates on anything in the education policy
12 arena and instead focuses on voting issues, contracting
13 issues, employment issues and general legislation that
14 falls outside of what we believe are traditional civil
15 rights principles.

16 Q. (BY MR. POWERS) Did the Project on Fair
17 Representation end its focus on (audio indiscernible)
18 because you now (audio indiscernible) those issues
19 through, SS, sorry SFFA?

20 REPORTER: Mr. Powers, can you repeat
21 that? You went out.

22 MR. POWERS: I will.

23 Q. (BY MR. POWERS) Did the Project on Fair
24 Representation end its focus on educational issues
25 because those issues are now being handled for you

1 through SFFA?

2 MR. MCCARTHY: Objection form.

3 THE WITNESS: I would say that that's
4 correct.

5 Q. (BY MR. POWERS) Am I right that the Project
6 on Fair Representation did handle those issues
7 throughout dependency of the Fisher litigation?

8 MR. MCCARTHY: Objection form.

9 THE WITNESS: Correct.

10 Q. (BY MR. POWERS) And, in fact, the Project on
11 Fair Representation was a vehicle for all of the funding
12 for the Fisher litigation?

13 REPORTER: Can you repeat that?

14 MR. MCCARTHY: Counsel, I lost you there.
15 I'm sorry.

16 MR. POWERS: I'm sorry.

17 Q. (BY MR. POWERS) The Project on Fair
18 Representation had responsibility for coordinating all
19 of the funding for the Fisher litigation?

20 A. Correct.

21 Q. And the Project on Fair Representation in the
22 hand-off of the education focus of its race-conscious
23 policy challenges, it actually provided seed money to
24 Students For Fair Admissions as it got off the ground;
25 is that right?

1 THE WITNESS: Yes.

2 Q. (BY MR. POWERS) That's also true with respect
3 to the Project on Fair Representation?

4 MR. MCCARTHY: Objection form.

5 THE WITNESS: Yes.

6 Q. (BY MR. POWERS) Did you have any role in
7 approving the form of organization that SFFA would
8 become?

9 A. Yes.

10 Q. And you -- you understood that when it was
11 being formed it was to be a Virginia nonprofit
12 corporation that would have no members; is that right?

13 MR. MCCARTHY: Objection.
14 Attorney/client privilege. I just want to caution the
15 witness not to disclose the communications that he's
16 ever had with counsel, but to the extent you can
17 navigate that instruction, you may answer the question.

18 THE WITNESS: Students For Fair
19 Admissions was conceived as a membership organization.
20 It is been to my attention, multiple times, that
21 Virginia nonprofit membership question pertains to a
22 statutory question rather than the actual individual
23 members who join Students For Fair Admissions.

24 Q. (BY MR. POWERS) From the outset of its
25 formation it was your understanding that you and Abigail

1 Fisher and Richard Fisher would have permanent seats on
2 SFFA's board, correct?

3 MR. MCCARTHY: Objection form.

4 THE WITNESS: As I described at the
5 beginning of the deposition the word permanent was
6 misspoken by me during the first deposition. That the
7 Articles of Incorporation and the amended bylaws, which
8 were brought to my attention, provide for the election
9 of the three of us plus now our fourth board member to
10 be elected by our fellow board members.

11 Q. (BY MR. POWERS) Well, and my -- my focus is on
12 not what the documents may say and -- and what you
13 learned through the passage of time, but on your
14 original understanding of the plan for SFFA and do you
15 hear the distinction that I'm drawing?

16 MR. MCCARTHY: Objection form.

17 THE WITNESS: I do hear the distinction
18 (audio indiscernible).

19 Q. (BY MR. POWERS) With that distinction in mind
20 my question is: Your understanding and plan, from the
21 outset, was that you and Richard Fisher and Abigail
22 Fisher would start out and remain in a position of
23 control with respect to SFFA?

24 MR. MCCARTHY: Objection form.

25 THE WITNESS: It was my understanding

1 right to go back and revisit that just to make sure my
2 memory is clear.

3 Q. Sitting here right now, your -- you memory --
4 we'll look at the bylaws later as well, but your -- your
5 memory and understanding is that though the bylaws had
6 been amended, the Articles of Incorporation have not
7 been amended?

8 A. I believe that's right.

9 Q. And you'll have a chance to review your
10 testimony later if you find any inaccuracies that need
11 clarification. Mr. Blum the -- it was your
12 understanding that when formed SFFA would be a Virginia
13 Nonstock Corporation, correct?

14 A. Yes.

15 MR. MCCARTHY: Objection form.

16 Q. (BY MR. POWERS) And that as -- according to
17 its Articles of Incorporation, it would have no members?
18 That's -- that's what the articles provide for, correct?

19 MR. MCCARTHY: Objection form.

20 THE WITNESS: So it clearly states the
21 Corporation shall have no members; however, Students For
22 Fair Admissions has always been conceived and then
23 (audio indiscernible) as a membership organization.
24 This sentence, the corporation shall have no members
25 that's -- with the statutory requirements under the

1 Virginia Nonstock Corporation Act, but Student For Fair
2 Admissions has always had members. It was conceived
3 that way. And it was executed that way.

4 Q. Mr. Blum the articles themselves though, make
5 very plain that the Corporation shall have no members.

6 MR. MCCARTHY: Objection form.

7 THE WITNESS: It has always been my
8 understanding and it was what the entire energy and
9 conception of Students For Fair Admissions was all
10 about. Was to be a membership organization. This --
11 that sentence applies, as it has been explained to me,
12 to the Virginia Nonstock Corporation Act not the actual
13 501C3 organization.

14 Q. And am I right that the sense that you had of
15 SFFA as a membership organization counted you and the
16 Fishers and law professors, fellows, and think-tank
17 members as the -- as founding members?

18 MR. MCCARTHY: Objection form.

19 THE WITNESS: That's correct.

20 Q. (BY MR. POWERS) Now, the -- I think, I heard
21 you say that you understood a -- distinctions that could
22 be drawn between mem -- people who could be described as
23 members for one purpose, but not members for another
24 purpose, is that a distinction I was hearing in your
25 earlier answer?

1 who meet the requirements of 3.03 are entitled to vote
2 for a director in the member elected seat?

3 MR. MCCARTHY: Objection form.

4 THE WITNESS: Mr. Powers you -- you
5 referenced just then Section 3.03, if I'm not mistaken.

6 MR. POWERS: I'm sorry. I'll -- I'll
7 rephrase.

8 Q. (BY MR. POWERS) Am I right that only those who
9 meet the requirements of the 3.02 are eligible to vote
10 for the member elected director position?

11 A. I will -- I will make one small addendum to
12 that and that is there have been a handful of young
13 students who had wanted to join, but have been unable to
14 join because they didn't have a credit card and they
15 contacted me directly and asked if they could join
16 without paying the \$10.00. That question went before
17 the board and we admitted them. So there are some
18 members now who can vote that actually haven't paid the
19 membership dues, but they were -- they were admitted as
20 members through that procedure.

21 Q. So you're saying that there was a formal board
22 action on particular members who sought eligibility to
23 become a member and vote without having paid the dues?

24 A. I think -- I think that's right. There were
25 only three kids that I remember from New York that --

1 THE WITNESS: Yes.

2 Q. (BY MR. POWERS) Would it be fair to say that
3 SFFA has not engaged in an effort to poll its members to
4 determine which policy issues or which types of actions
5 SFFA should be pursuing?

6 MR. MCCARTHY: Objection form.

7 THE WITNESS: We have not formatively
8 polled our members (audio indiscernible) what you have
9 just described.

10 MR. POWERS: Can you say that one more
11 time 'cause you broke up a little.

12 THE WITNESS: Yeah, I'm sorry. Yes,
13 Students For Fair Admissions has never polled in a
14 informal way our members on various endeavors that they
15 believe we should undertake. I will state that I am in
16 constant communication with the membership through phone
17 and email and receive dozens of -- of suggestions and
18 ideas in any given month on a one-to-one basis.

19 Q. (BY MR. POWERS) There's been no effort to
20 survey the -- to survey the 20,000 plus individuals that
21 you count as members to get feedback is that right?

22 MR. MCCARTHY: And again, I want to make
23 the same objection on the First Amendment and
24 associational privilege grounds and caution the witness
25 not to disclose the contents of any communications with

1 answer the question without making any such disclosure
2 you may answer the question.

3 THE WITNESS: I have never received a
4 petition from a group of members encouraging the
5 organization to (audio indiscernible) any kind of
6 direction.

7 Q. (BY MR. POWERS) And it's --

8 REPORTER: I'm sorry. I -- I didn't get
9 that last part, Mr. Blum.

10 THE WITNESS: Yes. I -- I have never
11 received a petition from a group of members encouraging
12 us to move the organization in a specific direction.

13 Q. (BY MR. POWERS) And in fact, is there any
14 practical way that the members of SFFA could assemble a
15 petition to distribute to SFFA?

16 MR. MCCARTHY: Objection form.

17 THE WITNESS: As individuals they can and
18 often do petition or encourage SFFA to undertake certain
19 endeavors.

20 Q. (BY MR. POWERS) Your -- am I right that there
21 is no practical way for a substantial number of members
22 to assemble together and coordinate on a request to SFFA
23 for any particular action or initiative?

24 MR. MCCARTHY: Objection form.

25 THE WITNESS: Because our membership is

1 optimal conditions for the zoom deposition here.

2 MR. POWERS: No worries.

3 Q. (BY MR. POWERS) Mr. Blum what role -- well,
4 first, do you know the identities of the individuals
5 that SFFA has put forward as standing members in this
6 lawsuit?

7 A. Yes.

8 Q. And what are their names?

9 A. [REDACTED]

10 [REDACTED]

11 Q. [REDACTED]

12 A. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. On -- have you met with either of them in
16 person before?

17 A. Yes.

18 Q. About how many occasions?

19 A. Once.

20 Q. Did you meet them both at the same time?

21 A. No.

22 Q. The -- when is the earliest time you met them?
23 The only time you met them?

24 MR. MCCARTHY: I'm sorry, counsel. Are
25 you just -- cause this might help the witness answer.

1 Are -- are you still referencing meeting in person?

2 MR. POWERS: Right.

3 MR. MCCARTHY: Okay. Thanks.

4 THE WITNESS: I -- Mr. Powers I -- I
5 could look at my calendar, but I -- I believe it was
6 2019 or 2018 that I met with [REDACTED] and [REDACTED]
7 family. I -- I could come up with greater specificity
8 after lunch if you'll -- if you'll you forgive me.

9 Q. (BY MR. POWERS) How -- how did you come to be
10 connected with [REDACTED]?

11 A. [REDACTED] mother contacted me.

12 Q. And as to [REDACTED], when did you meet
13 [REDACTED]?

14 A. I had never met [REDACTED] face to face, but I met
15 [REDACTED] I believe in 2019. I -- I spoke to [REDACTED] in 2019 and
16 I had extensive conversations with [REDACTED] father, I believe
17 in 2019.

18 Q. And how did you come to be connected with [REDACTED]
19 [REDACTED]?

20 A. [REDACTED] contacted me.

21 Q. And what role do [REDACTED] or [REDACTED]
22 [REDACTED] have in financially supporting this
23 lawsuit?

24 A. None whatsoever.

25 Q. Do you know whether either has cast votes when

1 sentence is -- stands on its own. I understand it for
2 exactly how it is raised and -- and written. Other than
3 that I'm not really -- I'm not prepared to give you a
4 legal opinion on -- on the aspects of your question.

5 Q. (BY MR. POWERS) SFFA elected to organize
6 itself in a way such that it would not have members
7 within the meaning of Virginia state law, correct?

8 MR. MCCARTHY: Objection form.

9 THE WITNESS: Correct.

10 Q. (BY MR. POWERS) And that choice was a
11 considered one and was based on reasons supported by the
12 fact that SFFA intended to conduct itself with the
13 litigation it anticipated, true?

14 MR. MCCARTHY: I'm sorry, counsel.
15 Objection form.

16 THE WITNESS: So Mr. -- Mr. Powers I'm
17 gonna repeat myself, but I think it's -- it's the best
18 way for me to answer that question. And -- and that is:
19 SFFA was conceived as a membership organization. It was
20 our goal to have dozens, hundreds, then thousands of
21 members. The statutory requirements of the Virginia
22 Nonstock Corporation Act is a totally different kind of
23 entity from what has been explained to me by counsel.
24 So I think that's -- I think that's a sufficient answer.

25 Q. (BY MR. POWERS) I do have this question. What

1 in your mind are the obvious reasons that SFFA had for
2 choosing to organize itself in a way so as to not have
3 members within the meaning of Virginia state law?

4 MR. MCCARTHY: Objection form and
5 objection attorney-client privilege. I caution the
6 witness not to disclose communications with counsel.

7 THE WITNESS: The answer is, I don't
8 know.

9 Q. (BY MR. POWERS) I want to turn now to another
10 topic. Am I correct that it was you who identified the
11 Wiley Rein firm as counsel or as the set of lawyers that
12 should serve as counsel for the Fisher lawsuit?

13 MR. MCCARTHY: Objection form.

14 THE WITNESS: I recommended Wiley Rein to
15 Abby and her father.

16 Q. (BY MR. POWERS) Now, to be clear you actually
17 identified Wiley Rein as -- as your expected or
18 preferred counsel before you had even identified Ms.
19 Fisher as the plaintiff, correct?

20 MR. MCCARTHY: Objection form.

21 THE WITNESS: I spoke to a number of
22 lawyers and number of different law firms about this
23 case -- about the idea of bringing a lawsuit against the
24 University of Texas. My roots at Wiley Rein -- were
25 deep and they expressed the most, you know, interest in

1 talked with a number of different counsel about the
2 possibilities for her going forward with this suit and
3 before you had identified the plaintiff?

4 MR. MCCARTHY: Objection form. And
5 again, I just caution the witness not to disclose
6 communications with counsel.

7 THE WITNESS: The answer to your
8 question, Mr. Powers, is yes.

9 Q. (BY MR. POWERS) And it was you who identified
10 the University of Texas as the target defendant for that
11 lawsuit, correct?

12 MR. MCCARTHY: Objection form.

13 THE WITNESS: Yes.

14 Q. (BY MR. POWERS) And you ultimately were the
15 one, both to find and approve that she was the right
16 person with respect to Abby Fisher?

17 MR. MCCARTHY: Objection form and I'm
18 gonna object again on attorney-client privilege and just
19 caution the witness not to disclose any communications
20 with counsel.

21 THE WITNESS: The -- the ultimate
22 decision to move forward with the litigation was made by
23 Abby and her family. But the counsel that Abby selected
24 was based upon my recommendation and my experience with
25 Wiley Rein.

1 Q. (BY MR. POWERS) And -- and in fact, you
2 actually regarded yourself and were regarded by Ms.
3 Fisher as her representative in connection with that
4 litigation?

5 MR. MCCARTHY: Objection form.

6 THE WITNESS: Well, I think the -- I'm
7 close to the Fisher family. I'm a family friend so
8 representative may not be the -- the term that I would
9 agree with it or they would agree with, but I was a
10 family friend and consequently they could call me night
11 or day. So I was a -- I was a conduit, if you will, on
12 -- a source -- a source of information -- limited
13 information that Abby and her mother and father could --
14 could call and -- and discuss.

15 Q. (BY MR. POWERS) There were calls with counsel
16 that you participated in throughout the lawsuit?

17 MR. MCCARTHY: Objection.

18 THE WITNESS: Yes.

19 Q. (BY MR. POWERS) And in fact, you had outlined
20 the lawsuit before Ms. Fisher had ever been identified
21 as the plaintiff for the lawsuit?

22 MR. MCCARTHY: I'm sorry, counsel. You
23 broke up a little bit.

24 THE WITNESS: You -- you were breaking up
25 a little bit.